

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 10131 of 1998****For Approval and Signature:****HON'BLE MR JUSTICE KS JHAVERI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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HINDUSTAN SALTS LIMITED - Petitioner(s)
Versus
GOVERNMENT OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR PRANAV G DESAI for Petitioner No(s).: 1.

MR KL PANDYA AGP for Respondent No(s).: 1.

MR NR SHAHANI for Respondent No(s).: 2.

MR SAMIR J DAVE for Respondent No(s).: 3.

CORAM : HON'BLE MR JUSTICE KS JHAVERI**Date : 18/07/2005****ORAL JUDGMENT**

1.0 The petitioner has challenged the Notification dated 17.10.1998 issued by respondent no.1, whereby the State

Government had added a new clause, i.e. Clause 2(c) in the Notification dated 25.04.1997. The said Clause 2(c) reads as under;

“Clause 2(c) : No employee shall receive less wages (including special allowances) than would have been payable vide Government Notification, Labour & Employment Department No. : KHR-823-MWA-3379-75478-M-(2) dated 28.09.1984 and No. : KHR-414-MWA-3374-75478-M-(2) dated 20.07.1987.”

2.0 The petitioner is a Government of India Undertaking established under the provisions of the Companies Act, 1956. On or around 20.07.1987, the State Government issued a Notification under the provisions of the Minimum Wages Act for fixing minimum wages for employees in the case of inland salt workers, at Annexure-A to the petition.

2.1 Thereafter, the State Government issued another Notification on or around 25.04.1997 fixing new rates of minimum wages w.e.f. 01.05.1997. On or around 17.10.1998, the State Government, by exercising powers u/s.10 of the Minimum Wages Act, added another clause, i.e. Clause 2(c) in the said Notification dated 25.04.1997.

2.2 Feeling aggrieved by the said Notification, the

petitioner has preferred this petition before this Court.

3.0 Mr.P.G. Desai learned advocate for the petitioner has contended that the exercise of powers u/s.10 of the Minimum Wages Act by respondent - State Government for making retrospective amendment in the Notification dated 25.04.1997 is wholly misconceived inasmuch as Section 10 of the said Act does not provide such powers to the respondent - State Government. He has relied upon Section 10 of the said Act which reads as under;

"Section 10 : Correction of Errors :

(1) The proper Government may, at any time, by notification in the Official Gazette, correct clerical or arithmetical mistakes in order fixing or revising minimum rates of wages under this Act, or errors arising thereby from any accidental slip or omission.

(2) Every such notifications shall as soon as may be after its issue be placed before the Advisory Board for information."

4.0 Mr. KL Pandya learned AGP has contended that the respondent - State Government, by exercising powers u/s.10 of the said Act, has only rectified the omission that had taken place. He has submitted that the respondent - State Government had obtained opinion and advice from the Minimum Wage Advisory Board and the

Commissioner of Labour before issuing the said Notification dated 17.10.1998. However, by mistake the said Clause was not incorporated in the Notification.

4.1 Mr. Pandya for the respondent - State Government has further submitted that since Clause 2(c) was not incorporated on account of an omission, the Notification dated 17.10.1998 came to be issued. He has, therefore, submitted that the respondent State Government was justified in issuing the said Notification dated 17.10.1998.

5.0 I have heard learned counsel for the parties and perused the documents placed on record. The said Notification dated 17.10.1998 was issued by the respondent - State Government to protect the minimum wages for the employees working in the salt industries. By the said Notification, the respondent - State Government had added a Clause, i.e. Clause 2(c) in the Notification dated 25.04.1997.

5.1 It is required to be noted that by the Notification dated 17.10.1998, the respondent - State Government has not revised the minimum wage rate. Therefore, the

question to follow the procedure laid down u/s.5 of the said Act does not arise. Moreover, before carrying out the said amendment, the respondent - State Government had consulted the Minimum Wage Advisory Board and the Commissioner of Labour. By rectifying the said mistake, pay which was on the higher side was protected and it was also not reduced. Hence, in my opinion, the said mistake was genuine and the respondent - State Government was completely justified in clarifying it by issuing the Notification dated 17.10.1998.

6.0 In the result, the petition is dismissed. Rule is discharged with no order as to costs. Interim relief stands vacated.

(K. S. JHAVERI, J.)

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